

Referral Union Rules  
Stakeholder Meeting – Spokane  
June 19, 2001

Attendees:

David Smith, IBEW Local 112  
Bob Vandecar, IBEW Local 112  
Bill Carter, Laborers Local 238  
Jim Taylor, Painters/Allied Trades Local 238  
Deven Johnson, Plasterers/Cement Masons Local 72  
John Morrish, Puget Sound NECA  
Pat Bauer, Roofers Local 189  
Wayne Herrington, Pacific NW Regional Council of Carpenters  
Rob Riordan, Pacific NW Regional Council of Carpenters  
Curt Koegen, Operating Engineers Local 370  
Floyd Burchett, Sheet Metal Workers Local 66  
Tom Reynolds, Laborers Local 348  
David Challey, Spokane NECA  
Greg Andrus, IBEW Local 73  
Douglas Barnard, IBEW Local 73  
Marlin McCurdy, Boiler Makers Local 242  
Grant Piche, Rebound  
Mike Keizer, Iron Workers Local 14  
Joe Rubertt, Pacific NW Regional Council of Carpenters  
Donnie Patterson, Iron Workers Local 14  
Jim Wallace, Pacific NW Regional Council of Carpenters  
Timm Ormsby, Building Trades Council  
Scott P. Smith, Plumbers & Steamfitters Local 44  
Mitchell Smith, Sprinkler Fitters Local 669

Staff:

Juanita Myers  
Ted Wade

Convened at 1:10 p.m.

Ted: Opening remarks. Referral union process works well, our intent is to clarify law, not make changes. Our intent is not to interfere in employer-employee relationship, nor in the hiring hall's internal operating procedures.

Juanita: Reviewed concept paper, discussed availability and work search requirements.

Marlin McCurdy: His local fills jobs at Hanford. If some of their members don't want to work with radioactive materials due to health concerns, can they turn down this work without jeopardizing UI benefits? There are other jobs that don't require working with hazardous materials.

Juanita: Suitable work provisions still apply, which requires department to consider the individual's physical health. If working with these types of hazardous materials is not customary to the occupation, the work would probably not be considered suitable.

Douglas Barnard: Wants to know why we're going through this. The system works; there hasn't been a problem for 99% of the employers. This is an isolated problem in one area which is moot even in that one case because the concept of open calls has gone away. The system works for everyone and provides an orderly referral procedure to fill jobs. It works for the contractors, otherwise this would have come up before. The IBEW referral system already deals with members who are not actively seeking work; don't need any more changes. Under this concept, an association can come in and challenge someone's availability when it doesn't even have a job available to fill. Believes court erred seriously in its ruling. Instituting a wholesale cause for doubting will overburden the entire system. Puts a burden on all employers in system, as the additional cost of administering the system will have to be spread over all employers. There can be a whole series of extenuating circumstances as to why someone didn't bid on a particular job (pay, longevity, distance, etc.). Will end up with more cause for doubting cases; associations shouldn't have right to challenge.

Juanita: Any ruling issued by Court of Appeals could apply to all unions, not just one local involved in case. Trying to develop rules through consultations with stakeholders that everyone can live with, rather than having a solution imposed by the court. The department is not proposing that associations be able to challenge availability. ESD held that the employer association involved was not an interested party, but the court determined that it did have standing to challenge. This could be upheld in appeal.

John Morrish: He was hired by NECA in 1998 to try to control UI costs for association members. Circular 3-94 was negotiated between labor and management. The department used to accept the information NECA provided. Then issued Supplement 1; NECA didn't like but provided information. In 1999, department said NECA not an interested party. Has sat in hearings where people admitted they didn't meet the union requirements, but were paid UI and department did nothing.

Bill Carter: Who's monitoring the non-union electricians? If the union members can be challenged by employers, and subject to call-in by the department, should

apply the same to non-union. The system works, no need to change. Should keep tight lid on what the employer has to provide to question someone's eligibility.

Tom Reynolds: What are the requirements of non-union people drawing UI? Can an employer question if someone turns down a job?

Juanita: Yes, but mostly happens in cases of work refusals. Less frequently challenge availability.

Bob Vandecar: Contractors are always asking for workers with special skills. The scope of work is vast. All members went through apprenticeship training where they got basic skills, but the skill needed by an employer may not be their specialty. What would happen if they turned down a job because they didn't think they had the level of skill required for the job, and another member of local would be better match for the job?

Juanita: Look at whether job was consistent with skills, education and training. Have to be case by case analysis. Agree could be difficult call in some cases.

Scott Smith: Clarify—is this an employer association questioning the availability of these workers?

John Morrish: NECA is a national association with limited power of attorney to represent member employers. Department has said they are not an interested party.

Scott Smith: Agrees with department. Doing otherwise gives association power to pick and choose who to challenge. There should be an employer with a job available.

Floyd Burchett: Agrees with IBEW. There is a variety of skills needed. Members got basics through apprenticeships but may not have level employer looking for. System works; they monitor their members.

Deven Johnson: Agrees; they self-police their members. It is in their self-interest to provide skilled workers to employers. They sanction those members who don't comply. Disingenuous for one organization to try to change a system that works well for everyone else.

Donnie Patterson: Locals know who the best people are for the contractors. If we adopt rules requiring most senior people to take the job, the contractors will stop using the unions.

Jim Wallace: It is important to them to get contractors the right help. Members have a variety of skills and abilities that need to be matched up.

Dave Smith: The employer has an unfettered right to accept or reject workers. If workers are penalized for making choices, a penalty should be applied to employers for doing this.

Curt Koegen: Many of their members have permanent seasonal jobs. May be off 2½ to 3 months. Shouldn't have to take another job during this period and lose this long term job and benefits.

John Morrish: He always checks with employer to see if a worker is on standby and doesn't challenge them.

Mitch Smith: There is a potential for employer abuse. They dispatch nationally. If an employer lays off workers in Washington, then union gets a call for jobs in Nevada, does that create a cause for doubting if Washington workers don't bid.

Juanita: Distance to work policies apply. Claimants not required to travel outside their labor market to seek or accept work.

Bob Vandecar: If he takes a job for which he knows he's not the best match, risks missing a better job. If his members are denied in these cases, shouldn't non-union members be denied under same circumstances?

Douglas Barnard: State needs guidelines. Has some ideas. Any cause for doubting should come from a former employer. "Just cause" should be limited to (1) a former employer (2) who made an offer to an individual (in compliance with union rules), and (3) the individual has to have refused that specific job. To allow an association, who doesn't know what's going on, standing to challenge someone would be wrong. They are not employers.

Timm Ormsby: If Puget Sound NECA can guarantee those standards (checking with employer, verifying standby, etc.) for all associations, that's one thing. But expanding standing to all associations creates a huge potential for abuse. Very fearful of associations in this area.

Pat Bauer: The consequences for claimants are severe. No penalty against a contractor who misrepresents a cause for doubting.

Scott Smith: Record keeping issue for unions. How often does the union need to call to find out where a person was at any given time? They've never had an employer with a cause for concern. Ridiculous to change system because of one association.

Joe Rubertt: Will cause spiraling increase in appeals. Worker not getting benefits during appeal process; hardship.

Bill Carter: If an association can be considered an interested party, who's next—the NAACP?

Deven Johnson: The union referral system puts people back to work more quickly. There is a potential for abuse in allowing associations standing, as they could use it against the union or individual employees.

Curt Koegen: Is aware the department is short-staffed; this will increase their manpower needs.

Deven Johnson: Should concentrate on going into the non-union sector and getting those people back to work as quickly as do union members.

*(Break. After the break, Ted called names from the sign-in sheet and asked if they had additional comments.)*

Bob Vandecar: People may be signed up with several locals to try to expand their opportunities for work. Yet have to be present at hall to get a job. May miss a job in their own local because is out at another looking for work. What happens then?

Juanita: The response to any question as to why they weren't present to bid on a job is they were looking for work elsewhere. No penalty for doing that.

Tom Reynolds: Thinks the department should adopt rules, but make them the same as the current policy.

Doug Barnard: Inclusion of associations still concerns him. Associated General Contractors is a statewide organization, so could have standing to challenge the eligibility of everyone on the out of work books. Rule has to be limited to a former employer.

Marlin McCurdy: Don't fix what isn't broke.

Mike Keizer: The general voice he's hearing is that the system works. Adopting an alternative will open a can of worms.

Dave Smith: Concerned over impact of appellate decision.

Bob Vandecar: Contractors shouldn't have the right to reject workers if they can then question that person's eligibility. Unions don't want to have to refer less qualified workers just to safeguard the UI of their members.

Bill Carter: Every hall has rules to protect their employers. This is an isolated incident. A rule change for the state is not called for.

Jim Taylor: Concurs. Doesn't agree with an employer group manipulating the system. Puts burden on department and the unions. Unions have rights under federal law. The current policy should be adopted as the rule.

Deven Johnson: Unions are self-policing and respond to department's inquiries. Their job is to supply contractors with qualified people. Absurd that an isolated association should impact everyone else. Rule should say the challenge must be from a former employer, not an association.

John Morrish: The system is broken. In another pending lawsuit, the dispatcher was falsifying records and the department did nothing about it. The department should implement circular 3-94. Need to agree on what "eligible for dispatch" means.

Wayne Herrington: The lack of interest from other employers shows this is truly an isolated case. Every union uses a different sign-in/check-in system. Things work fine; every union operates under its own guidelines.

Rob Riordan: NECA has done a good job so far of costing lots of people a lot of money.

Joe Rubertt: When the person files a claim, was asked if they were available for work. This should be enough. Everyone pays into UI. Workers are doing the best they know how. Putting more rules in place will burden the employers and make them use non-union workers.

Donnie Patterson: The system works well. Proposed changes will create a cost burden for employers and the people of the state.

Jim Wallace: The lower UI rate for union members says a lot for how well the system works now.

Timm Ormsby: How many employers in the real world have turned in a good worker for going hunting or on vacation? Wants the same standards set for union members to apply to non-unions. There are real or perceived issues involving only contractors in the Puget Sound region. Mass potential for abuse by allowing

employers and associations to use this as a harassment technique. Weigh the alleged abuse against the potential costs of changing the system.

Scott Smith: Never has had an issue like this come across his desk. Creating a bureaucratic nightmare where no problem exists.

Mitch Smith: Is concerned if a union official falsified records, but shouldn't impact all organized labor. Unions want to be accountable to their members.

Juanita: Next steps. Will compile all comments received from four stakeholder meetings and review. Need to decide whether to proceed with rule-making. If so, will draft proposed rules and distribute for comments. All will have an opportunity to review and comment on any proposed rules. Not before August at earliest.

Ted: Thanks for coming.

Adjourned 3:10 p.m.